

MINUTES

**MONTANA SENATE
56th LEGISLATURE - REGULAR SESSION**

COMMITTEE ON TAXATION

Call to Order: By **CHAIRMAN GERRY DEVLIN**, on March 26, 1999 at 8:00 A.M., in Room 413/415 Capitol.

ROLL CALL

Members Present:

Sen. Gerry Devlin, Chairman (R)
Sen. Bob DePratu, Vice Chairman (R)
Sen. Dorothy Eck (D)
Sen. Jon Ellingson (D)
Sen. Alvin Ellis Jr.(R)
Sen. Bill Glaser (R)
Sen. Barry "Spook" Stang (D)

Members Excused: Sen. John C. Bohlinger (R)
Sen. E. P. "Pete" Ekegren (R)

Members Absent: None

Staff Present: Sandy Barnes, Committee Secretary
Lee Heiman, Legislative Branch

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing(s) & Date(s) Posted: HJR 2, 3/22/1999
Executive Action: SB 517; SB 525; SB 530; SB 370

HEARING ON HJR 2

Sponsor: REPRESENTATIVE ROBERT R. STORY JR., HD 24, PARK CITY

Proponents: None

Opponents: None

Informational Testimony: Terry Johnson, Legislative Fiscal
Division

**Dave Lewis, Director, Budget and Program
Planning**

Opening Statement by Sponsor:

REP. BOB STORY, HD 24, Park City, said this is a revenue estimating resolution. He said during the interim the estimating process was a coordination of the processes used by the Legislative Fiscal Division and Budget and Program Planning, along with the Department of Revenue. He said an estimate was presented to the Revenue Oversight Committee, which then worked it over. It was then sent to House Taxation, and after some changes in the House, the result is what is before the Senate Taxation Committee. **REP. STORY** said this is an important resolution as far as knowing where the state will be as far as income so that we can have a balanced budget.

REP. STORY distributed a sheet entitled "Legislative Fiscal Division, General Fund Revenue Estimate Comparisons," **EXHIBIT (tas68a01)**. He said this sheet summarizes expected revenue figures and compares what House Tax recommended and what the Administration recommended. He said he feels the estimate is accurate. As with any estimate, some of the categories are high and others are low, but his understanding is that as the revenues are coming in, the 1998 estimates are accurate and the future estimates are built from that.

Informational Testimony:

Terry Johnson, Legislative Fiscal Division, distributed a sheet entitled "Legislative Fiscal Division, Revenue Estimate Adjustments, House Taxation Committee," **EXHIBIT (tas68a02)**. This is a summarization of the adjustments that were made to the revenue estimates by the House Taxation Committee. He said the House floor did not make any further adjustments to **HJR 2**.

Mr. Johnson said there are two large components there: 1) the individual income tax adjustment of \$27.2 million, and 2) the tobacco settlement money, \$20.05 million. The rest of the changes were driven off of more current information than the Revenue Oversight Committee had at the time they met, and the total changes by House Taxation were just under \$55 million.

Mr. Johnson then handed out "Chart A, General Fund Revenue by Major Component 2001 Biennium," **EXHIBIT (tas68a03)**. He said this shows where the General Fund gets most of its revenue. As the chart shows, the main categories are individual income taxes and property tax.

Mr. Johnson said with regard to the tobacco settlement money on the first sheet, the House Taxation Committee came up with the estimate of \$20 million based on testimony that was provided to the committee by Chris Tweeten of the Department of Justice. At that time it was anticipated that we could get as much as \$67 million from this settlement. That number has actually gone up some, but the issue that is pending is potentially how much the federal government may take of that money. The House Taxation Committee chose to take the conservative approach and reflected the 30% as the state's portion, with 70% being the Medicaid matching rate.

Dave Lewis, Director, Budget and Program Planning, said he wanted to acknowledge the change in the process of establishing these estimates. He said after the last session when there was such a big difference between the two factions that had to be worked on all session, it was decided to spend a lot more resources on this process in the interim, making sure that the work had been done that was needed and to be able to explain the differences. That has worked very well, and his office is very satisfied with where it is now.

Questions from Committee Members and Responses:

SEN. GLASER asked if there was any reflection in anything so far about the changes in revenue because of **SB 260**. **Mr. Lewis** said the Fiscal Note on **SB 260** is reflected on the status report, so this is the starting point as far as revenues and then they go into the status report and the Fiscal Notes on bills that have passed one house or the other, but are reflected in there. So the basic revenue estimate is not adjusted at this point, but the status report reflects those bills as passed.

SEN. ELLINGSON said he was concerned about the \$30 million that is anticipated to come from the sale of Montana Power Company properties. He said he was aware of alternatives that the company could pursue which would minimize or eliminate this \$30 million, and he wondered what the implications are if that does not come through. **Mr. Johnson** said that from a standpoint of the General Fund status sheet, the document issued on March 23 indicated that the projected balance of all of the bills that are essentially alive and well at this point in time have projected balances of a little over \$28 million. Included in that is the anticipation of getting the \$30 million, so if the state did not receive that \$30 million in the 2001 biennium, this projected balance at this point in time would be roughly a negative \$2 million.

SEN. ELLINGSON asked if there had been discussions with the Power Company as to what their anticipated plans are should this sale go through that would give the legislature a better feel as to whether or not they could or could not count on this \$30 million.

Mr. Johnson said that at the November meeting of the Revenue Oversight Committee, the Department of Revenue had come up with an estimate of how much potentially would be generated from the sale of the generation assets. The Revenue Oversight Committee felt comfortable with that and that was built into the revenue estimate at that time. Shortly after that, a spokesman for the Montana Power Company indicated that there was a very good chance that the state would not receive that \$30 million, and that was the first indication that there might be a question. Then when the House Taxation met in January, Chairman Hibbard asked someone from Montana Power Company to come before the committee and provide testimony on what could be anticipated, and at that point in time he testified that the sale was proceeding well and that the state could very well realize capital gains income. He said the committee did not ask whether that capital gains income would turn into \$30 million of tax revenue for the state of Montana. The House Taxation felt comfortable with keeping that estimate built into the resolution, so it is still built into the revenue estimate. Since that time, there have been a number of mixed signals regarding that revenue. **SEN. ELLINGSON** asked if he had any idea when these questions would be resolved, and **Mr. Johnson** said he did not.

CHAIRMAN DEVLIN asked if there was anything in this resolution that reflects the additional revenue from the sale since the sales price was reestablished at a higher level. **Mr. Johnson** said from the standpoint of the revenue estimate, the \$30 million is strictly in the area of corporation income taxes, and there has not been any other adjustment on the property tax side.

SEN. STANG asked if this bill was amended in the House to reflect the Supreme Court's decision on **SB 195**. **Mr. Johnson** said that it was not. At the time the House Taxation Committee met, that decision had not been brought down, and these numbers are not adjusted for that.

SEN. STANG asked how much they should be adjusted downward to show that effect. **Brad Simshaw, Department of Revenue**, provided a table which reflected his analysis regarding this question, **EXHIBIT (tas68a04)**. He said this shows that the total decrease in taxable value results in \$13.8 million and \$5.8 million in estimated taxes.

SEN. STANG asked if the \$5.8 million is the state portion or if it is the state and local government portion. **Mr. Simshaw** said

that is total taxes paid by that property. The state portion would be the 95 mills times the \$13.8 million decrease. **SEN. STANG** asked if he knew what that amount would be, and **Mr. Simshaw** said it would be about \$1.3 million.

SEN. GLASER asked about the six mills, and **Mr. Simshaw** said that for General Fund purposes, only the 95 mills would be counted.

SEN. ELLINGSON asked **Mr. Johnson** how comfortable he was with the increases in individual income taxes that are reflected. **Mr. Johnson** said that in the area of individual income tax, this is by far one of the most complex sources to estimate. He said there was a federal tax law change regarding capital gains which reduced the federal tax on capital gains to 20% and that generated a change on the state level. He said the state is seeing stronger capital gains income growth, and he believes that is why the income tax collections continue to come in at a very strong pace. His concern is whether that will continue. **SEN. ELLINGSON** asked how much of the individual income tax is attributable to the capital gains tax, and **Mr. Johnson** said that between 65% and 70% of the total income is generated from wages, and the remaining is generated from other sources.

SEN. ELLIS said **Mr. Johnson** had said that a reduction in the stock market would trigger a reduction in capital gains income. He asked if people have to sell shares in order for the market to go down, and **Mr. Johnson** said that was correct. He said we could have a downturn that could be positive to Montana. The underlying issue is that a downturn in the stock market usually lends itself to lower corporate profit earnings that would indicate a general economic slowdown. **SEN. ELLIS** said that so far this year most corporate reports are quite positive. **Mr. Johnson** said that the stock market in the last week has been very jittery about corporate profit earnings, and there is some concern about what might be going on there. **SEN. ELLIS** asked if that uncertainty was the result of Bosnia, and **Mr. Johnson** said that the stock market behaves in very erratic ways.

SEN. ELLIS asked if the Department of Revenue had any more information in regard to Montana Power Company's sale, and **Larry Finch, Department of Revenue**, said he did not. **SEN. ELLIS** asked if anyone else from the Department might know, and **Judy Paynter, Department of Revenue**, said that the Department had worked with the tax consultants of each company in the fall to determine what the sale would bring in on capital gains, and then MPC testified in front of House Taxation that the company does not make all of its decisions on ways in which to avoid taxes but more for business purposes. She felt at that time they indicated that the

\$30 million was fairly solid. She said she had not worked with that issue since that time.

SEN. ELLIS said there was some question about income tax returns and whether these projections are sound. He asked if the Department had seen anything yet as far as the receipts from income tax that would point to ominous trends. **Ms. Paynter** said the income tax that is coming in exceeds the revenue projections.

SEN. ELLIS asked what portion of those reflect estimates of individuals that might be off from last year, and **Ms. Paynter** said there are increases over last year in every category, so they are well ahead of the projections.

SEN. ELLIS, with regard to the MPC sale, asked if they could avoid capital gains tax by reinvesting in another area. **Ms. Paynter** said that had been discussed at the Department of Revenue, and she said although they do not expect that to happen, there is a vague potential in the structuring of the sale that that could happen. **SEN. ELLIS** asked **Mr. Lewis** the same question. **Mr. Lewis** said he cannot add to what **Ms. Paynter** had testified. He said there is no way of knowing, but it is not expected.

SEN. ECK said that in discussions of the utility tax, there were veiled threats that if the rate was not reduced to 6%, the sale might fall through, and she wondered if that was a possibility. **Mr. Lewis** said he had no inside information.

SEN. STANG, referring to the assumptions, said it appears to reflect a higher sale of cigarettes in 2001 than in 1998, and he thought there had been a reduction in sales due to high prices and fewer smokers. **Mr. Johnson** said that the information in the resolution on page 13 under the 1998 column is not a comparable number to 1999. It turns out that the information that LFD uses in formulating the revenue estimates is what is shown in 1998. The House Taxation Committee actually adopted the assumptions as developed by the Executive, so it is not a fair comparison. From 1999 through 2001, they are a fair comparison because those are the recommendations by the Executive. The House Taxation Committee had asked about this, and even with further information, they did not feel there was any reason to adjust those figures.

SEN. ELLIS asked if **REP. STORY** had become aware of any vulnerability in this since it was heard in the House, and **REP. STORY** said he did not have any great concerns, other than the unknown of what will be happening in two years. He said the income tax is the one to watch because it is 45% of the budget, and the \$30 million from the MPC sale.

CHAIRMAN DEVLIN said the committee had had some concerns about the capital gains question on the MPC sale. **Ed Bartlett, Montana Power Company**, said that the sale is proceeding toward completion as soon as possible. He said he still believes that the calculation that the Department of Revenue did on the capital gains is agreeable, with the qualification that like any business, Montana Power Company looks for business opportunities. Investing, however, in another asset is not a tax deductible expense, it is a depreciable item. **CHAIRMAN DEVLIN** asked about purchases similar to the generating facilities, and **Mr. Bartlett** said that they do look for other investments and ways to grow, but he doubts they will go back into generating.

SEN. ELLIS said that Montana Power Company is into fiberoptics, and he wondered if a similar asset conversion into that area would help to avoid the capital gains tax on the power generating equipment. **Mr. Bartlett** said it is his understanding that that type of investment would not be a taxable deduction in that year, it would become a depreciable asset. Montana Power as a taxpayer in this state will pay what it is obligated to pay, and that calculation is as good an estimate as they can see.

SEN. ECK asked on what basis the corporation tax is projected to decrease, what would cause that decline. **Brian Smith, Department of Revenue**, said that research had indicated declining corporate pretax profits through 2001 and then a gradual return to a normal increasing profitability.

Closing by Sponsor:

REP. STORY said he appreciated the good hearing on the resolution. He said there is a lot of detail available which he could provide from LFD and the Department of Revenue. He said he feels that the numbers are pretty solid and he is comfortable with those.

CHAIRMAN DEVLIN asked **REP. STORY** who would carry this on the floor of the Senate, and **REP. STORY** said that **SEN. DEPRATU** had been involved in the subcommittee process all along and probably understands the process that the resolution has gone through.

SEN. DEPRATU said he would carry **HJR 2**.

NOTE: A recess was taken for a short meeting of the Subcommittee on Sales Tax.

SEN. BOHLINGER and **SEN. EKEGREN** joined the meeting.

EXECUTIVE ACTION ON SB 517

CHAIRMAN DEVLIN said that the Department of Revenue had approached him on **SB 517** regarding the nondeductibility of federal taxes from state taxes. This is one piece of the Governor's VAT tax proposal. He asked the Department to explain.

Mary Bryson, Department of Revenue, said it is the goal of the Department to revise income taxes and simplify the individual tax return, and they had proposed to do this through **HB 582**, and now are proposing to accomplish it through **SB 517**. She provided a packet of information, **EXHIBIT (tas68a05)**, the first page of which was a sample of what the Montana individual tax return would look like under this proposed change, followed by some charts which indicate what the impacts would be. She said **SB 517** would have to be amended because of some drafting errors that occurred in what was intended.

Ms. Bryson told the committee that this represents a significant departure from current law in order to provide Montanans with a greatly simplified method of calculating their state individual income tax. She said instead of starting with federal adjusted gross income as is done presently, we would start with federal taxable income, so all of the deductions and things that occur at the federal level to result in the federal taxable income would be reflected in using that federal taxable income as the starting point for Montana individual tax returns.

Ms. Bryson said a taxpayer would have to file at the same filing status as at the federal level, but the Department has provided four tax rate schedules to accommodate that. The tax tables in this plan would now go from 4% to 7%, as reflected in the charts at the bottom of the income tax return, rather than 11% as presently. She said it is an indexed system, so it is a progressive method of doing that.

Ms. Bryson said the charts reflect the Department's effort to make this as revenue neutral as possible. There will be winners and losers because of the significant changes in tax policy, but the same curve is maintained so the same amount of revenue would be generated. The last few charts reflect the tie to federal taxable income for the various categories.

Ms. Bryson said that one of the advantages of this proposal is that they are attempting to take similarly situated households, with basically the same amount of income paying the same amount of tax. She said that is an inequity that exists in the tax system today as a result of the complex filing system and allowing for the various deductions. The House had raised

questions regarding the deduction associated with retirement income for public retirees and military retirees, and the Department had offered amendments to rectify that situation. Finally, there was an amendment that also resolved the issue with tip income not being taxed in Montana. **Ms. Bryson** said there would be amendments necessary to **SB 517** to make it reflect revenue neutrality, and the Department is willing to do that.

CHAIRMAN DEVLIN said that the reason he was allowing this additional testimony on **SB 517** was because the day the committee heard the two sales tax packages, even though this was one part of the Governor's package, it did not receive a lot of attention. The Department feels strongly about this part of their proposal, and **CHAIRMAN DEVLIN** asked for discussion from the committee on this matter.

SEN. BOHLINGER asked **Ms. Bryson** what happened to **HB 518**, and **Ms. Bryson** responded that because of the anxiety associated with the retirement and tip income, the House Taxation Committee felt uncomfortable with the proposal and it has been tabled.

SEN. ELLIS asked if the Department had submitted amendments to eliminate the inheritance tax portion of this bill, and **Ms. Bryson** said that would not be included in this portion.

CHAIRMAN DEVLIN asked what the amendments do for the tip issue, and **Ms. Bryson** said they allow for tips to be deducted from the federal taxable income and they would not be taxed.

SEN. ELLIS said the Department had approached him about carrying this bill, and he had told them that it would depend on what the reception was in the committee because he did not feel the legislation was very attractive without some lowering of the income tax. However, he said that income tax is also a consideration for businesses moving into the state as well as the business equipment tax, and he would let the committee decide what would be the best way to deal with this.

SEN. DEPRATU asked if the Department had figures of what percentage of total tax collections relates to those making \$100,000 or more, and **Ms. Bryson** said it could be derived from the information provided this morning.

SEN. ECK asked how close **SB 517** was to **HB 582**. **Ms. Bryson** said this bill did more than what was proposed in **HB 582**. She said **HB 528** was revenue neutral to start with. This proposal came forward as part of the overall package, and it is not revenue neutral. **SEN. ECK** asked if there was the possibility that there

would be enough additional revenue from this bill to cover the losses that are faced in the property tax schedules. **Ms. Bryson** said that that potential is in this bill, although that was not the direction of the Department.

SEN. BOHLINGER said that the current income tax rate structure that goes from 2% to 11% results in the reputation that Montana is expensive to live in with respect to income taxes, and those people don't understand the deductibility of federal taxes which brings it down to a net effective rate that would fall within the range that is being proposed here, 4% to 11%. **Ms. Bryson** said that was correct. **SEN. BOHLINGER** said it seems, then, that it is important for Montana to rid ourselves of this perception by doing this, and he sees this as a way to simplify the calculation of Montanans' tax obligation. **Ms. Bryson** said that clearly the main thrust of this legislation is simplification. The effective tax rate for Montanans stays fairly constant. The true advantage of this is that when your federal tax return is complete, you take information from that, file a copy of your federal tax return with the state return and nothing else needs to be done.

SEN. STANG said he wondered why Montana would want Washington, D.C., to decide our tax policy for us. If Montana follows their form and changes our rates, Washington is deciding our tax policy. He said Montanans should decide Montana's tax policy.

Motion/Vote: **SEN. STANG MOVED THAT SB 517 BE TABLED. Motion carried 5-4 with Bohlinger, Eck, Ellingson and Ellis voting no (Roll call vote #1).**

SUBCOMMITTEE ON SALES TAX REPORT

SEN. DEPRATU said that the Subcommittee on Sales Tax has met many hours and has a very good understanding of the three sales tax proposals, the VAT tax from the Governor, the Sprague sales tax proposal which includes services, and the Devlin sales tax proposal which taxes goods and tourist-related services. **SEN. DEPRATU** said the subcommittee this morning had voted 2-1 to recommend the Devlin proposal with some amendments which would be submitted by **SEN. GLASER**.

SEN. GLASER said the committee was charged with taking a big sack of bills and trying to figure out which bill has the best chance and the best opportunity to do the right thing for Montana. He said he believes that the legislature is a close reflection of the public of Montana. He said he and **SEN. DEPRATU** had asked each member of their caucus how they felt about each of these proposals, and they came to the conclusion that, as **SEN. STANG** had said, these proposals have a chance of slim to none, so even

though the subcommittee has recommended the Devlin proposal, it was his feeling that the committee should cut their losses, throw this month of study by the subcommittee on sales tax out, and get on to something that can be accomplished. He said there are other proposals that can move forward positively, but continuing with these proposals will waste time and create huge emotions that are going to cloud everything else we do here.

SEN. STANG said he did not see this proposal as being the one that has the best chance of passing the electorate because he did not feel that this proposal provides the property tax relief for homeowners that they are clamoring for. He said businesses do not cause tax revolts, people do, and if we are going to do something that gives people relief from their property taxes, we have to give them a bill that will do that. He said he does not believe that **SB 525** does that.

SEN. ECK said that she has always supported getting proposals before the people, but she said if the people voted on this sales tax proposal, even if and especially if they understood it, they would vote against it. There just is not enough property tax relief for homeowners. She does not support this proposal.

CHAIRMAN DEVLIN said that the reduction is about one-fourth on all properties because of the 95 and 6 mills, so out of \$800 million collected on property taxes, there is a \$200 million reduction.

SEN. BOHLINGER said that his constituents had told him that their greatest concern was that they would be taxed out of their homes. The people of Montana want to see tax reform with relief on property tax and business equipment and machinery, and they want to see the creation of new jobs for their children and grandchildren. He said he supports tax reform legislation, but he feels that this tax proposal falls short unless it is amended to include services, and he cannot support it. He said he felt that the Sprague proposal was more in line with what he would like to see.

CHAIRMAN DEVLIN asked **SEN. STANG** if he could support the Sprague bill, and **SEN. STANG** said he could support getting it out of this committee if there were more homeowner tax relief in it.

CHAIRMAN DEVLIN then asked **SEN. ELLINGSON** the same question, and he replied no. **SEN. ECK** said she would agree with **SEN. STANG'S** comments.

SEN. ELLIS said he has always been a supporter of a sales tax, but he felt that people in the state needed to drive this issue. He said he was delighted to hear that there was a tax reform

coalition working on a proposal, but he was disappointed with what was presented because it is burdened with self-interest.

EXECUTIVE ACTION ON SB 525

Motion/Vote: SEN. ELLIS MOVED THAT SB 525 BE TABLED. Motion carried 6-3 with Devlin, Ekegren and Glaser voting no (Roll call vote #2).

CHAIRMAN DEVLIN said SB 525 is tabled. He said it would never have left the committee because there is certainly not enough support on the floor for any of these sales tax proposals. He said the state has been endowed with some extra monies and there is no pressure to fill the budget that we are working on or any other little side items. He said some day it will come in this state, but he is not going to waste any more time of this committee nor the time of the Senate as a whole.

SEN. DEPRATU offered thanks to all those who participated in the study of these proposals, and he understood that there is disappointment among some of those folks who worked so hard. He commended **Judy Paynter, Department of Revenue**, and her staff and the staff of the **Legislative Fiscal Division**. He said this information can be beneficial to future studies of this particular tax reform. He also thanked **SEN. STANG** and **SEN. GLASER** and the other legislators who participated in the subcommittee meetings. He said it is just not the right time at this point.

SEN. GLASER said it is time to set this issue aside and move on. SEN. STANG also voiced appreciation for the other members of the subcommittee and all the people who participated in the meetings and offered advice and service. He said he appreciated the hard work and diligence that was put into these proposals. He said he is not sure there is a sales tax proposal that will pass the electorate, and he felt that the vote of the committee today reflects the will of the people very well.

EXECUTIVE ACTION ON SB 530

CHAIRMAN DEVLIN provided a new fiscal note, **EXHIBIT (tas68a06)**, for SB 530, which is the oil and gas proposal.

Motion: SEN. ELLIS MOVED THAT SB 530 DO PASS.

Discussion:

Brian Smith, Department of Revenue, provided copies of proposed amendments, **EXHIBIT (tas68a07)**. He said these amendments simply deal with the applicability date, because the Department will be unable to reprogram its computer system to meet the timeline set forth in this bill. This amendment makes it apply to oil and natural gas produced and sold after June 30, 1999. He said this will not have a fiscal impact for 1999, but it will have impacts on 2000 and 2001.

SEN. ELLIS said the impact on the General Fund for 2000 is \$178,000 and 2001 is \$217,000, and he said he thought the industry had testified that it would impact their taxes about \$2 million. He wondered if the impact for all jurisdictions wouldn't be about four times this amount. **Mr. Smith** said the combined impact is approximately \$1.9 million in 2000 and a little over \$2 million in 2001. He said what is happening is that the impact to local governments in Fiscal Year 2000 is about \$1.4 million and in 2001, about \$1.5 million. He said that seems large compared to the impact on the General Fund, but the reason is because the bill moves the local government distribution portion of the oil and gas production tax to a liability basis, to be distributed on prior year mill levies.

SEN. ELLIS wondered if this pointed out a flaw in this legislation. He said this kind of legislation is needed by the industry, and he would like to see this bill get through the process, but he is disappointed that 90% of the impact is going to be on local governments.

SEN. STANG asked if this bill has a pool that redistributes the monies to the counties, and **SEN. DEPRATU** said that was just a suggested amendment. **SEN. STANG** asked if that were to be put on this bill, what the effect would be, and **Mr. Smith** said there is a mechanism in the bill to deal with some of the liability impacts. He said the bill sets aside 5% of the total local distributions to reimburse so-called loser counties. There is not a mechanism in the bill to deal with the impact being borne by local governments in general.

SEN. STANG said the industry showed good reasons for this bill, but this represents a substantial loss to local governments. He said he will probably support moving this bill out of committee, but then check with local governments before it gets to the floor.

Motion/Vote: **SEN. STANG MOVED PROPOSED AMENDMENTS BY DEPARTMENT OF REVENUE TO SB 530. Motion carried 9-0.**

SEN. ELLIS said he believes we should try to keep this production going as long as possible. It is in Montana's long-range best interest to keep these people out in the field.

SEN. ECK said that schools are hit harder than local governments, and she is still optimistic that there will be some reimbursement mechanism that will do something for local governments. She said the industry made a good case, and it is an industry that needs to be supported.

Vote: Motion carried 9-0 (Roll call vote #3).

EXECUTIVE ACTION ON SB 370

Motion/Vote: SEN. STANG MOVED TO RECONSIDER ACTION ON SB 370.
Motion carried 9-0.

Motion: SEN. STANG MOVED THAT SB 370 DO PASS AS AMENDED.

Discussion:

SEN. GLASER said he had an additional amendment, **EXHIBIT (tas68a08)**, which changes the percentage from 25% to 33%, and that tax relief goes to the countywide teachers' retirement levy, a good portion of which goes for tax relief within the city with a smaller portion going into the donut area.

Motion: SEN. GLASER MOVED SB037005.ALH.

Discussion:

SEN. GLASER said that without an amendment such as this, he cannot support the bill. He said he has felt that the problem from the very beginning with local option taxes has been the perception that people are stealing from their neighbors by the very fact that they have the merchant system to draw them there, and this is an acceptable method of handling that situation.

SEN. STANG said he thinks this amendment will kill the bill. He said he agrees with the concept, but not to the teachers' retirement fund.

SEN. ECK said she appreciates what **SEN. STANG** said about perceptions, but the concept is good. She said she has always had a concern that the city would collect the tax, but a lot of that tax would be collected from people who live in the surrounding area. It could be worded in such a way that the mandatory mills for teachers' retirement would be reduced by this

tax, recognizing that those are mandatory mills that the people do not have a chance to vote on.

SEN. ELLIS said this makes a very unpalatable idea somewhat more tasty.

SEN. STANG asked if rather than going into the teachers' retirement fund, it could go into the countywide general fund, and whether that would be acceptable to **SEN. GLASER**. **SEN. GLASER** said that if it goes into the countywide levy, then more money proportionally would go to the county people than would go to city coffers. He said his amendment was aimed at putting the majority of the money in the taxing area. He suggested that rather than saying teachers' retirement fund, to say in statute that it goes to the retirement fund, but use ballot language that would tell the people what is really being done. The ballot language could say that this money has to go to this particular concept, countywide reduction, reducing mandatory mills. He said he would be willing to work on a ballot language that would be acceptable.

SEN. STANG said the legislature does not determine the ballot language, the county or local government does. He said he will not support the amendment because he does not like it, but if it is necessary to get the bill out, then pass it.

Vote: Motion carried 7-2 (Roll call vote #4).

Motion: **SEN. DEPRATU** MOVED SB037003.ALH, **EXHIBIT**(tas68a09)

Discussion:

SEN. DEPRATU said this adds in more tourist-related items on which the tax could be collected, but it is written in such a way that if an insurance company rents a car for an insurance replacement, that would not be considered recreational use and the tax would not have to be paid. He feels this will enhance the bill.

SEN. STANG said he agreed.

SEN. ELLINGSON clarified that a replacement vehicle for insurance purposes would not be taxed, and **SEN. DEPRATU** said that was correct. **SEN. ELLINGSON** said he did not see how that could be done, because you would have to depend on people telling you that they are renting it for nonrecreational purposes. **Mr. Heiman** said that this would be the enabling legislation to allow the local governments to write their ordinance describing what can be taxed, and that is the point where they can delineate that. **SEN.**

ELLINGSON said he just had a problem with having the tax determined by the point-of-sale representation of the person who is doing the renting. He said he would support it anyway.

Vote: Motion carried 9-0.

Motion: SEN. EKEGREN MOVED SB037006.ALH, **EXHIBIT**(tas68a10).

Discussion:

Mr. Heiman said these are technical amendments of the amendment adopted earlier that took out the contingency voidance provision. He said he made a mistake on that.

Vote: Motion carried 9-0.

CHAIRMAN DEVLIN asked if the committee was ready for the question on the do pass as amended motion.

Vote: Motion carried 7-2 (Roll call vote #5).

A letter was received after the hearing from Loren Kopseng to the Montana Petroleum Association dated March 22, 1999, recommending passage of **SB 530**, **EXHIBIT**(tas68a11).

ADJOURNMENT

Adjournment: 11:40 A.M.

SEN. GERRY DEVLIN, Chairman

SANDY BARNES, Secretary

GD/SB

EXHIBIT (tas68aad)